

Information and Privacy Commissioner,
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

ORDER PO-4742

Appeal PA25-00353

Ministry of Long-Term Care

October 8, 2025

Summary: On March 5, 2025, an individual, as a co-substitute decision maker, asked the Ministry of Long-Term Care for records about their parent, and a specific long-term care home. The ministry extended the time limit to respond to the request until May 5, 2025. The appellant appealed because the ministry did not issue a decision within the extended time limit. The decision-maker finds that the ministry has not issued a final decision, and the request is deemed to have been refused. The ministry is ordered to issue a final access decision by October 22, 2025.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended sections 26 and 29.

OVERVIEW:

[1] On March 5, 2025, the Ministry of Health sent a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) made by an individual, in their capacity as their parent's co-substitute decision maker, to the Ministry of Long-Term Care (the ministry)¹ for records about their parent and their parent's substitute decision-makers

¹ On June 3, 2024, an initial request was made by the appellant to the Ministry of Long-Term Care when access requests under the *Act* to this ministry were being processed by staff at the Ministry of Health. On October 31, 2024, the Ministry of Health issued a decision in response to part of the request and advised the appellant that its freedom of information office was no longer processing requests for the Ministry of Long-Term Care. The appellant was advised by the Ministry of Health that they could submit a new request to the Ministry of Long-Term Care for the remainder of the request.

and about a specific long-term care home and its licensee, for a specific time period.

[2] On March 10, 2025, the ministry sought clarification from the appellant, which was provided by the appellant.

[3] On April 2, 2025, the ministry extended the time to respond to the request until May 5, 2025, due to a large volume of records.

[4] On May 8, 2025, the appellant appealed to the Information and Privacy Commissioner of Ontario (the IPC) because the ministry failed to issue a decision to the appellant by the extended time limit. File PA25-00353 was opened.

[5] On June 20, 2025, the ministry issued an interim access decision, advising that, after conducting a preliminary search, approximately 4000 records were located. It also issued a fee estimate for search time in the amount of \$11,910 for 397 hours but did not provide an estimate for preparation time. It further requested a deposit of \$5995 to proceed with the request.

[6] On June 30, 2025, the IPC advised the ministry that an interim decision issued after the extended time limit, did not cure a deemed refusal and encouraged it to issue a final access decision by July 14, 2025. The ministry acknowledged receipt of this.

[7] On July 18, 2025, the appellant requested a fee waiver from the ministry.

[8] On July 21, 2025, the IPC encouraged the ministry to issue a final access decision by July 28, 2025 and advised that a Notice of Expedited Inquiry would be issued if a final access decision was not issued.

[9] On July 22, 2025, the ministry requested until August 5, 2025 to issue a final access decision and agreed to waive the fees for this request.

[10] On August 27, 2025, I advised the ministry that if a final access decision was not issued by August 29, 2025, I would issue a Notice of Expedited Inquiry. The ministry did not issue its decision by this date.

[11] On September 9, 2025, I decided to conduct an expedited inquiry and issued a Notice of Expedited Inquiry, encouraging the ministry to issue a final access decision by September 23, 2025.

[12] To date, the ministry has not issued a final access decision to the appellant.

[13] Considering the above, and to ensure there are no further delays in processing this access request, I will order the ministry to issue a final decision to the appellant.

DISCUSSION:

[14] Section 26 of the *Act* outlines the time parameters for an institution to respond to an access request:

Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 25, the head of the institution to which it is forwarded or transferred, shall, subject to sections 27, 28 and 57, within thirty days after the request is received,

(a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and

(b) if access is to be given, give the person who made the request access to the record or part thereof, and where necessary for the purpose cause the record to be produced.

[15] Section 29(4) of the *Act* outlines the circumstances giving rise to a deemed refusal:

A head who fails to give the notice required under section 26 or subsection 28(7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given.

[16] Previous IPC orders have found that a decision to extend the time for responding to a request² and/or an interim decision/fee estimate³ should be issued within the initial 30-day time limit for responding to a request.

[17] Where a time extension has been issued, it is expected that, prior to the expiry of the extension, subject to sections 28 and 57 of the *Act*, written notice will be given to the requester as to whether access to the record or a part thereof will be given and for access to the record to then be given to the requester. This is referred to as a final access decision. If a final access decision is not issued prior to the expiry of the time extension, the institution would be in a “deemed refusal” pursuant to section 29(4) of the *Act*.

[18] Previous IPC orders have found that issuing a time extension once the 30-day time limit has expired does not cure a deemed refusal.⁴

[19] The appellant’s request for records was sent to the ministry on March 5, 2025. The ministry extended the time to respond to the request by an additional 30 days until May 5, 2025, and subsequently issued an interim access decision with a fee estimate on June

² Orders MO-1520-I, PO-2634.

³ Orders P-234, M-439 M-581, MO-1748 and PO-2634.

⁴ Orders MO-1777, PO-2595 and PO-2634.

20, 2025, for which a fee waiver was granted. However, this does not cure a deemed refusal as it is not a final access decision.

[20] As a final access decision was not issued to the appellant by the extended due date and no decision has been issued to date, the ministry is deemed to have refused the access request.

[21] Therefore, I find the ministry to be in a deemed refusal situation under section 29(4) of the *Act*.

[22] To ensure that there are no further delays, I will order the ministry to issue a final access decision to the appellant.

ORDER:

1. I order the ministry to issue a final access decision to the appellant regarding access to the records in accordance with the *Act*, by **October 22, 2025**.
2. To verify compliance, the ministry shall provide me with a copy by email of the decision referred to in provision 1 by **October 22, 2025**.

Original Signed by: _____
Asma Mayat
Case Lead

October 8, 2025 _____